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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,796	10/19/1999	SCOTT KIRKPATRICK	YO999-421	3306
7590 02/23/2004 MCGINN AND GIBB PC 8321 Old Courthouse Road Suite 200 Vienna, VA 22182			EXAMINER LUU, SY D	
			ART UNIT 2174	PAPER NUMBER 16
DATE MAILED: 02/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/420,796

Applicant(s)

KIRKPATRICK ET AL.

Examiner

Sy D Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☒ This action is FINAL.. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14, 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This communication is responsive to Amendment C, filed 12/3/03. This action is Final.
2. Claims 1-9, 11-14, and 16-25 are pending in this application. Claims 1, 16, 20, 23, and 24 are independent claims. In the Amendment C, claims 2, 5, 13, 17, and 19-21 were amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 112*

4. Claims 2-5, 7, 13, 19, and 21-22 recites the following limitations in which there are insufficient antecedent basis for this limitation in the claim.

In claims 2 and 4: does "said associating" on line 5 of claim 2, and on line 1 of claim 4 refer to "associated" of line 4 in claim 2 or "associating" in line 10 of claim 1 in the amendments?

#### *Claim Rejections - 35 USC § 102*

5. Claims 1-16 and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Kazama et al ("Kazama", U.S. 6,111,580).

As per claim 1, Kazama teaches a method of enabling a computer system to recognize specific actions of a user, said method comprising:

capturing and displaying a first image of a user including a first predetermined target area in a video stream (fig. 13; col. 9, lines 21-41; *hand area 81 being a predetermined target area*);

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determining that a state of said first predetermined target area from the user that a state of said first predetermined target area is to be associated with a first computer event, and associating said first computer event with said state of said first predetermined target area in response to said determination (col. 5, lines 31-62; *particularly lines 56-58 where gestures are determined/detected at the initial state/position of the hand for the act of a toss or a sweep for controlling operations/events*; col. 8, lines 51-62; col. 9, lines 21-41); and

storing information in a memory device regarding the association (col. 13, lines 40-45).

As per claim 2, Kazama teaches: capturing and displaying a second image with the first target area, wherein an indication indicates that a change of state between said first and second images in said first predetermined target area is to be associated with said computer event, and wherein said associating comprises associating said change of state with said first computer event (col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41; *gestures are determined/detected at the final state/position of the hand for the act of a toss or a sweep for controlling operations/events*).

As per claims 3-4, Kazama teaches detecting a change of a pattern of color [claim 3] at figure 313, and column 5, lines 31-38; and storing a summary of colors [claim 4] at column 5, lines 39-65.

As per claims 5-6, Kazama teaches that a change of state is pattern of activity within said video stream which indicates a change of position of the user image within the first target area (fig. 13; col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41; *e.g. a change of state of the hand from the initial position to the last position for the act of a toss or a sweep for controlling operations/events*); and that the first image includes an object in said first predetermined target

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area (fig. 13; *hand object 81*).

As per claim 7, Kazama teaches a specific computer function to execute (col. 8, lines 51-62, column 9, lines 21-41, and column 13, lines 43-45).

As to claims 8-9, Kazama shows a square predetermined target area (fig. 13, area 81), and the first computer event comprises plural computer events [claim 9] at column 5, lines 46-59.

Kazama teaches positioning [claim 11] and locating [claim 12] the predetermined target area using one of a user input command and a program command (fig. 13; col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41).

As per claim 13, Kamaza teaches: receiving a second indication that a state of the second target area including a user image is to be associated with a second computer event, and associating the second computer event with a state of the second predetermined target area (col. 5, lines 31-62; col. 8, lines 51-62; col. 9, lines 21-41); and storing information regarding the association (col. 13, lines 40-45).

As per claim 14, Kazama describes a mouse click action at figure 7, and column 7, line 2.

Claims 16-17 are similar in scope to claim 1, and are therefore rejected under similar rationale.

Claims 18-23 are similar in scope to claims 11, 13, 1, 1, 13, and 1 respectively, and are therefore rejected under similar rationale.

Claims 24-25 are similar in scope to claim 1, and are therefore rejected under similar rationale.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-9, 11-14 and 16-25 have been fully considered but they are not persuasive. Applicant argues the following: (a) the Examiner did not consider the amended claims in light of different interpretations and citations; (b) Kazama does not teach/suggest a predetermined target area.

The Examiner respectfully disagrees for the following reasons.

Per (a), in the Office Action dated 9/3/2003, the Examiner interpreted the "hand area 81" to be the predetermined "target area". This is a different interpretation from the previous Office Action dated 9/19/2002, in which Kazama's hand area 81 was interpreted as not a "target area", but rather the Iwamura reference was used in combination with Kazama for the limitation of "target area". The Examiner also included a new citation of column 5, lines 31-62 from Kazama; this new citation was not used in the previous Office Action dated 9/19/2002.

Per (b), the language of the claims are still read on by Kazama. "Predetermined target area" is interpreted by the Examiner to be a target area which has been determined. In the Kazama reference, the hand is predetermined by the user to be the target area. By disclosing "In this case, the user previously sets the face's color or the hand's color to the computer to detect the predetermined area." (col. 3, lines 46-48), it is clearly indicated by Kazama that the area containing the hand or face is used to set or predetermine by the user as the target area to be recognized for specific actions of a user.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

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policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Inquires*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'Sy Luu', with a long horizontal stroke extending to the left and a checkmark-like flourish on the right.

**SY D. LUU**  
**PRIMARY EXAMINER**